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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,800	08/30/2001	Joseph R. Szarka	14-505 C1	9788

26831 7590 07/27/2005

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EXAMINER

CHOW, MING

ART UNIT PAPER NUMBER

2645

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/942,800

Applicant(s)

SZARKA ET AL.

Examiner

Ming Chow

Art Unit

2645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6 is/are allowed.
- 6) ☒ Claim(s) 1, 3, 7 is/are rejected.
- 7) ☐ Claim(s) 2-5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Examiner's Amendment.

### **INTERVIEW**

1. A telephone interview with Attorney David Hill on June 10, 2005 indicating claims 1-8 are allowable subject to Examiner's amendment authorized by the Attorney. However, after the telephone interview, a new prior art was identified for rejections to claims 1, 7, and 8.

### **TERMINAL DISCLAIMER**

2. The terminal disclaimer filed on 3-21-05 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 6285860 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### **ALLOWABLE SUBJECT MATTER**

3. Claim 6 is allowed.
4. Claims 2-5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is an examiner's statement of reasons for allowance:

Upon close review of the claims, the prior art and applicant's remarks it appears that the allowance of claims 2-6 is appropriate. For claims 2, 6, the prior art does not teach a plurality of transmitters and all of which issue a radio signal simultaneously in periodic bursts. A receiver detects an interruption from any one of the simultaneously issued radio signals to inhibit the machine operation. For claim 4, the prior art does not teach each transmitter issues a signal having address data and lockout status data.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1, 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "substantially" (line 12 of claim 1, line 13 of claim 7) is not clearly defined.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 7, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dubois (US: 5025175), in view of Kajita et al (US: 6778097).

Dubois teaches a control safety circuit 24A (Fig. 4) includes a radio transmitter 42 (see col. 2 line 46-68). An operator turns the switch 47 of transmitter 42 to an "ON" position which causes a radio signal to be sent to the receiver 48 of the meat machine. This will cause relay 35 on the machine to the closed position so that electrical power will be able to deliver to motor 16. Dubois further teaches that if the antenna 44 is grounded (see col. 2 line 68 to col. 3 line 3), the transmission of the radio signal (i.e., the "ON" signal generated by transmitter 42) is interrupted. Although Dubois does not explicitly teach that the radio signal is continuously transmitted in regular periodic bursts, it is clear that Dubois continuous to send the radio signal to the receiver 48 until the antenna is grounded. Further, it is inherent that any radio signal is sent out as burst. Thus, Dubois did teach that the radio signal is sent in regular periodic burst.

Dubois failed to teach "an equipment lockout activating member to transmit a stop signal". However, Kajita et al teach on column 25 line 11-16, a transmitter sends out a signal to stop the engine.

It would have been obvious to one skilled at the time the invention was made to modify Dubois to have “an equipment lockout activating member to transmit a stop signal” as taught by Kajita et al such that the modified system of Dubois would be able to support the system users conveniences of sending a stop signal to lockout the machine.

Dubois failed to teach “the machinery is a construction equipment”. However, Kajita et al teach on column 4 line 27-30, Fig. 1, Fig. 9, a remote control apparatus for operating construction machines. Kajita et al further teach on column 15 line 17-28, signal to control the construction machine to a safe place.

It would have been obvious to one skilled at the time the invention was made to use Dubois control safety circuit disclosed in Fig. 4 of Dubois in the construction equipment as taught by Kajita et al such that the construction machine of Kajita et al would have same type of safety control as mentioned by Dubois..

### ***Conclusion***

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US: 5238191

Art Unit: 2645

4. Any inquiry concerning this application and office action should be directed to the examiner Ming Chow whose telephone number is (571) 272-7535. The examiner can normally be reached on Monday through Friday from 8:30 am to 5 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang, can be reached on (571) 272-7547. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service whose telephone number is (571) 272-2600. Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks**


**Washington, D.C. 20231**

**Or faxed to Central FAX Number 571-273-8300.**

Patent Examiner

Art Unit 2645

Ming Chow



**FAN TSANG**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**